

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL OF HUNTSVILLE, ALABAMA,
HELD THURSDAY, APRIL 10, 2014

The Honorable Council of the City of Huntsville, Alabama, met in regular session on Thursday, April 10, 2014, at 6 p.m., in the Council Chambers of the Municipal Building, there being present:

President:	Russell
Councilpersons:	Culver, Olshefski, Showers, Kling
Mayor:	Battle
City Administrator:	Hamilton
City Attorney:	Joffrion
City Clerk-Treasurer:	Hagood

President Russell called the meeting to order

Pastor Dennis Fakes, St. Mark's Lutheran Church, led the invocation; Councilman Olshefski led the pledge of allegiance.

The minutes of the Regular Meeting of the Council on March 27, 2014, were approved as submitted.

President Russell stated that the next item on the agenda was Resolutions and Special Recognitions.

President Russell recognized Mayor Battle.

Mayor Battle asked Chief Harry Hobbs, Mr. Kenny Anderson, and Ms. Sara Crocker to come forward. He continued that Ms. Crocker's parents were visiting and welcomed them to the meeting.

Mayor Battle stated that Chief Hobbs would be recognizing

the CAFY/99 Young Citizen of the Month at this time.

Chief Hobbs stated that the Young Citizen of the Month was Mariah Gullatte, noting that she had done an excellent job serving in the local community. He continued that she was very active in her local church, working with the youth, and was very active in a local dance ministry. He continued that she was very active in her high school, Sparkman High School, where she was a junior, that she was part of the Future Business Leaders of America. He continued that she worked at homeless shelters, thrift shops, local youth clubs, and Harvest Elementary School. He stated that Mariah made other persons feel lazy by giving back everywhere she went, at home, church, and in her community.

Chief Hobbs stated that Mariah had recently gone to Washington, D.C., to represent local youth in the area of health, endeavoring to keep the youth healthy. He stated that they were very proud of her.

Ms. Sara Crocker of the City of Huntsville Human Relations Commission stated to Mariah that they were delighted to be able to honor her at this time. She presented a certificate to her, recognizing her as the Star 99/CAFY Young Citizen of the Month.

Mr. George Dugan of DynCorp stated to Mariah that it was wonderful to see young citizens helping in the community the way she did, noting that she was such an inspiration for all the other youth in the city. He presented an envelope from DynCorp to her, stating that he certainly hoped she enjoyed it.

Mariah expressed appreciation for the recognition. She continued that she would like to introduce her family, her grandmother and grandfather, her aunt, her mother and father, and her brother.

Mariah also expressed appreciation to her sponsor for this award, Ms. Barbara Johnson, thanking her for taking the time to do this.

Mayor Battle asked Mr. Ken Benion of Community Development to come forward.

Mayor Battle stated that he had a resolution declaring April 2014 as Fair Housing Month.

President Russell read and introduced a resolution authorizing the Mayor to declare April 2014 as Fair Housing Month, marking the 46th anniversary of the signing of the National Fair Housing Act, Title VIII, of the Civil Rights Act of 1968, as follows:

(RESOLUTION NO. 14-230)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers and was unanimously adopted.

Mayor Battle recognized Mr. Benion.

Mr. Benion stated that in 1964 the Civil Rights Act had been passed, and that approximately four years later, after the assassination of Dr. Martin Luther King, Jr., the Fair Housing Act had been passed. He continued that this basically said that persons could not discriminate in housing, whether renting

or selling, based on color, religion, national origin, familial status, disability, or race.

Mr. Benion stated that they had just wanted to bring awareness to the Fair Housing Act and show that the City of Huntsville was a fair housing place and that they supported the Fair Housing Act.

Mayor Battle presented a copy of the resolution to Mr. Benion, expressing appreciation to him.

President Russell stated that the next item on the agenda was recognition of the 8 and Under International All-Star Basketball Team for becoming District champions and finishing in the top eight in the State of Alabama.

President Russell asked Coach Mike Manley to come forward.

Mayor Battle congratulated the coach for this outstanding achievement and asked him to introduce his team members.

Coach Manley introduced the team members and asked them to come forward.

Coach Manley stated that his team had won the District Championship and had gone to the State and had ended up in the top eight. He stated that the team members had put in a lot of hard work to get where they were and that he was very proud of them.

President Russell stated that not only were these team members good basketball players and good athletes, but they were also great students. He stated to them that they were being counted on to be the future leaders of the city. He

congratulated them on their outstanding season.

President Russell stated that at this time there would be a very special presentation by the group KARMA. He asked Councilman Showers to introduce the group.

Councilman Showers stated that the Council was delighted to have a group present that was visiting in the city. He continued that the group had visited two schools, Montview and Ridgecrest, earlier in the day. He stated that this group had been going across the country, visiting schools and showing the youth that there was a better way to interact in schools rather than bullying. He stated that the group had been very active in the city during the week and that both he and Councilman Kling had had an opportunity to see their presentation. He continued that this was a group of four young women who were sweeping the country and that their whole purpose of being in the city was to say no to bullying.

Councilman Showers asked the director of the group to come forward and introduce the young people and the production company.

Ms. Temmora Levy appeared before the Council, stating that the name of the group, as mentioned, was KARMA. She continued that while everyone was aware of what the word "karma" stood for, many persons understood it only as bad karma. She continued that the group tried to teach that "karma" really meant "What goes around comes around," that what one put out, one was guaranteed to get back.

Ms. Levy stated that she was an international recording artist and that her family was from Memphis, Tennessee. She stated that she had been watching a movie with her daughter about bullying and her daughter had been very upset about the movie, and they had decided to do something proactive about this matter, which was to go from city to city, state to state, and school to school with this group. She noted that her daughter was a member of the group and stated that the members of the group were 15 years old and were home-schooled and were straight A students, that they all lived with her at this time.

Ms. Levy stated that they were taking the message around the country that bullying was wrong, noting that the members of the group had actually been bullied themselves. She stated that her daughter had been in a private school and one would think that the setting would be perfect for her but she had told her later that she had been bullied while in this school. She stated that she had asked her why she had not told her at the time, and she had replied that she had not because she was her mom.

Ms. Levy stated that in discussing what they could do about this matter, they had sat down as a group and discussed it and had made up a program called "Anti Bullying" and had decided to present it through music, in order to get the message across. She stated that they had incorporated some great songs, such as "Take Me The Way I Am."

Ms. Levy stated that as the group had traveled around,

they had met students who had told them that they had been bullying but had not realized what it was, that they had not realized they were actually bullying. She stated that, also, some of the youth had talked about hurting themselves or hurting others. She stated that these youth had come on Instagram and were talking to members of her group, noting that the group actually talked to 200 to 500 kids every night. She continued that they visited three schools a day, five days a week.

Ms. Levy stated that they also had a group of staff who traveled around with them, that they had taken off to come and help the group. She stated that she and her husband financially backed the project. She continued that in Huntsville they had visited 15 to 20 schools and they now had a lot of people in the city who loved the group. She stated that the program was mainly geared toward middle school, but they actually had three programs, for elementary school, middle school, as well as high school. She stated that by the time the youth got to high school, they had pretty much made up their minds, but they could still get a lot of them to change or waver a little bit.

The group came on stage and introduced themselves as Ariel, Kirsten, Journey, and Miesha Michelle.

The members of the group commented on the various types of bullying: verbal, mental, cyber, and physical, and presented an outstanding musical performance for the Council and the

audience.

Councilman Showers stated that earlier in the week during one of the group's appearances, he had presented them a key to the city. He continued that at this time they had some certificates to present and stated that Mayor Battle would be presenting the certificates.

Mayor Battle thanked the group for their work in the community, noting that it was very much appreciated. He presented certificates to the members of the group.

The members of the group expressed appreciation for the recognition.

President Russell stated that items 4.a.3, 15.z, and 15.aa had been deleted from the agenda.

President Russell stated that the next item on the agenda was Public Hearings to be Held.

President Russell stated that it was the time and place in the meeting for a public hearing in order to hear and consider all objections or protests, if any, for removal of a nuisance at 1512 McCrary Street, NW, Huntsville, Alabama, which hearing was set at the March 27, 2014, Regular Council Meeting.

President Russell asked if there were any objections to come before the Council.

There was no response.

President Russell stated that the public hearing was closed.

President Russell read and introduced a resolution

ordering abatement of a nuisance at 1512 McCrary Street, NW, Huntsville, Alabama, as follows:

(RESOLUTION NO. 14-231)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling.

President Russell asked Mr. Benion for an explanation of the above resolution.

Mr. Benion stated that this was a burnt-out structure that was located at 1512 McCrary Street. He stated that he had shown photographs of the structure at the prior Council meeting and that he could show them again at this time. He displayed the photographs, stating that the house was basically totally demolished. He continued that some of the debris had been moved but that they needed to have this process completed and that that was what they were asking for permission to do at this time.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell stated that it was the time and place in the meeting for a public hearing on a resolution authorizing the demolition of an unsafe building, constituting a public nuisance, located at 2821 Union Drive, NW.

President Russell recognized Mr. Benion.

Mr. Benion stated that this was also a burnt-out structure, noting that the property had been in this condition for several years. He stated that they were looking to have

this demolished or burned by the Fire Department as one of their test burns. He stated that, of course, the neighborhood was in favor of them getting rid of this and that they were looking for the Council's approval in order to do the demolition.

President Russell asked if there was anyone in the audience who would like to comment on this particular matter.

There was no response.

President Russell stated that the hearing was closed.

Councilman Kling read and introduced a resolution authorizing the demolition of an unsafe building, constituting a public nuisance, located at 2821 Union Drive, NW, as follows:

(RESOLUTION NO. 14-232)

Councilman Kling moved for approval of the foregoing resolution, which motion was duly seconded by President Russell.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell stated that it was the time and place in the meeting for a public hearing on a resolution authorizing the City Clerk-Treasurer to assess the cost of demolishing a structure located at 2207 Thirteenth St., SW.

President Russell recognized Mr. Benion.

Mr. Benion stated that the structure identified in the resolution had previously been declared unsafe and authorized for demolition. He continued that the resolution authorized

the assessment of the cost of demolition and removal of the debris from the property. He stated that Attachment A identified the owner, the date that Community Development had taken action, and the cost of the demolition and removal of the debris from the property. He continued that the total cost was \$4,419.58. He stated that the owner had received a written request for payment and had failed to respond, so that at this time he was requesting that an assessment be placed on this property to collect the cost.

Mr. Benion stated that the owner had been notified of the proposed action and might wish to speak at this time.

President Russell asked if there was anyone in the audience who would like to address this particular issue.

There was no response.

President Russell stated that the public hearing was closed.

President Russell read and introduced a resolution authorizing the City Clerk-Treasurer to assess the cost of demolishing the structure located at 2207 Thirteenth St., SW, as follows:

(RESOLUTION NO. 14-233)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell stated that it was the time and place in the meeting for a public hearing to hear the appeal of Mr. Tommy Howell, appealing the decision of the Liquor License Review Committee denying a Retail Liquor Lounge Entertainment License to Club Upscale, LLC, d/b/a Club Upscale, at 2021 Golf Road, Huntsville, AL 35802, at the March 6, 2014, Liquor License Review Committee Meeting, which hearing was set at the March 13, 2013, Regular Council Meeting.

President Russell asked if there was anyone in the audience who would like to address the Council on this particular matter.

Ms. Linda Ferguson, 2225 Golf Road, appeared before the Council, stating that she was President of the Homeowners Association of Sutton Place Condominiums. She continued that she also had a letter from the property manager of Park Place Apartments stating that she was not in favor of the granting of this license. She stated that there were a lot of concerns in her neighborhood about this matter, noting that in the prior five years there had been three shootings and stabbings in this location. She stated that the road that went up to this location was a dead-end street and that persons came out at 2:00 or 2:30 in the morning, with radios blaring out of their cars and racing down the street. She stated that the police had been called numerous times to this location. She continued that she had bullet casings in her purse from the last shooting at the location, which she noted had happened right after the

Boston bombings.

Ms. Ferguson stated that the residents in the area were highly upset that this location might be given another liquor license. She stated that she was speaking for the entire Homeowners Association, including 100 units. She stated that the property manager at Park Place Apartments had been unable to attend the meeting but that she could speak for her location on Golf Road.

Ms. Ferguson stated that she owned two units and both of them were located right at the parking lot and that she was finding liquor bottles, syringes, et cetera. She stated that Sutton Place Apartments was a neighborhood, that they were families, and that with persons that had been coming into the area, they could not have a safe, happy neighborhood.

Ms. Ferguson stated that she would be glad to answer any questions the Council members might have concerning this matter, noting that she could tell them much more about the situation.

President Russell asked Ms. Pearl Stamper, Administrative Assistant to the Council, to pick up the letters from Ms. Ferguson.

(Submission by Ms. Ferguson.)

Ms. Ferguson stated that the main problems were in the parking lot, that the club itself had not been a problem, that it was the clientele. She stated that she had a three-year-old grandson who spent every weekend with her and that the noise

from the parking lot was a real problem. She stated that the police said they could not do anything about the noise because it might cause a riot. She continued that there had been a riot at another shopping center, and the police had advised that they did not want to have a riot. She stated that, therefore, there was not much control in the area. She stated that if the police would not watch persons coming out and enforce the noise ordinance, it was a real problem.

Ms. Ferguson stated that at this time there were not enough parking spaces available for the club. She continued that with the last incident they had had, they had had to call a towing company and there were so many cars that the towing company would not come to tow them. She stated that they had a sign posted at the entrance to her area that cars of persons who did not live in the area would be towed but that there were at least 50 cars in their lots and their own residents did not have places to park. She stated that this was a very big concern.

Ms. Ferguson asked if a petition would help in this regard.

President Russell stated that Ms. Ferguson could certainly do whatever she would like to do concerning this.

President Russell asked if there was anyone else in the audience who would like to address the Council on this particular issue.

There was no response.

President Russell moved to continue the hearing until the first Regular Meeting of the Council in May, on May 8, 2014.

Said motion was duly seconded by Councilman Showers.

President Russell called for the vote on the above motion, and it was unanimously approved.

Councilman Kling asked what the City departments' recommendations had been on the above matter.

President Russell asked Mr. Dennis Cole of the Clerk-Treasurer's Department, Chairman of the Liquor License Review Committee, to provide a history of this process and explain what had happened regarding this up until this time.

Mr. Cole stated that when they took an application for a retail liquor lounge entertainment license, they submitted it to different departments for them to review and approve or deny on different aspects. He continued that the subject application had been forwarded to the Fire Department, and they had put a seated occupancy capacity on the building. He continued that the application would then go to the Zoning Department, and they would determine if there was sufficient parking based upon the capacity. He continued that the application had been denied by the Planning Department, based upon the recommendation of the Zoning administrator as a result of insufficient parking capacity.

Councilman Kling stated that there were blanks on the paperwork: City Clerk, Police, Planning. He continued that there was nothing on the paperwork on that, but there was

something about Finance that he could not understand. He asked if it was correct that there was nothing from the Police or from Planning.

Mr. Cole stated that the Police were on the committee, and that he had a copy of their denial in his paperwork.

Councilman Kling asked if it was correct that both the Police Department and the Fire Department had denied it.

Mr. Cole stated that the Fire Department and Finance had approved it, but the City Clerk-Treasurer Department, the Planning Department, and the Police Department, which he noted made up the committee, had denied it, based upon the Zoning Administrator's recommendation.

President Russell stated that the next item on the agenda was Public Hearings to be Set.

Councilman Showers read and introduced a resolution to set a public hearing on an ordinance zoning newly annexed property lying on the west side of Nick Fitchard Road and west of Research Park Boulevard as Neighborhood Business C-1 District, at the May 22, 2014, Regular Council Meeting, as follows:

(RESOLUTION NO. 14-234)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver and was unanimously adopted.

Councilman Showers read and introduced Ordinance No. 14-235, zoning newly annexed property lying on the west side of Nick Fitchard Road and west of Research Park Boulevard

as Neighborhood Business C-1 District.

Councilman Showers read and introduced a resolution to set a public hearing on an ordinance zoning newly annexed property lying on the west side of Christopher Drive and north of U.S. Highway 72 West as Residence 2-A District, at the May 22, 2014, Regular Council Meeting, as follows:

(RESOLUTION NO. 14-236)

Councilman moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Showers read and introduced Ordinance No. 14-237, zoning newly annexed property lying on the west side of Christopher Drive and north of U.S. Highway 72 West as Residence 2-A District.

Councilman Showers read and introduced a resolution to set a public hearing on an ordinance zoning newly annexed property lying on the north side of U.S. Highway 72 West and east of Jeff Road as Highway Business C-4 District, at the May 22, 2014, Regular Council Meeting, as follows:

(RESOLUTION NO. 14-238)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver and was unanimously adopted.

Councilman Showers read and introduced Ordinance No. 14-239, zoning newly annexed property lying on the north side of U.S. Highway 72 West and east of Jeff Road as Highway

Business C-4 District.

Councilman Showers read and introduced a resolution to set a public hearing on an ordinance zoning newly annexed property lying west of U.S. Highway 431 South and on the north side of Plainview Drive as Residence 1-A District, at the May 22, 2014, Regular Council Meeting, as follows:

(RESOLUTION NO. 14-240)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Showers read and introduced Ordinance No. 14-241, zoning newly annexed property lying west of U.S. Highway 431 South and on the north side of Plainview Drive as Residence 1-A District.

President Russell stated that the next item on the agenda was Communications from the Public. He stated that persons would have three minutes to address the Council and asked that they give their name and address when they came to the microphone.

Ms. Jackie Reed, 303 Jack Coleman Drive, appeared before the Council, stating that she would be moving in the near future and would have a new address.

Ms. Reed thanked the Council for allowing public input and stated that she was very pleased to see all the young people becoming involved with the City.

Ms. Reed stated that the chicken ordinance had not

completely gone away and that now there was also the livestock ordinance, and the farmers market. She stated that they should drop all the urban agriculture, and that if people wanted a farmers market, they should go to Zoning and the Variance Board and send out their letters like they should. She stated that they had been on this matter for six to eight months, and that she felt it was time to let it die and let it go.

Ms. Reed stated that she was concerned about the property at Jefferson and Clinton, specifically \$100 per year for 50 years. She stated that she had never been informed as to what the appraisal was on this property.

Ms. Reed stated that some persons told her that none of her questions were ever answered. She asked that they answer some of them at times.

Ms. Reed asked what the City would be paying for the development at Jefferson and Clinton. She stated that at some time they could answer that question for her.

Ms. Reed stated that she was happy to see that they were working on the creek, but that she wished they would cut the grass while they were there. She stated that she had been attempting to find out for quite some time why the grass was never cut at that location.

Ms. Reed stated that she hoped the project on Holmes Avenue was not part of a riverwalk they had been talking about coming into the city.

Ms. Reed stated that she had been looking at all the

development in the city, including two or three hotels. She continued that she understood that the hotel people, during the mayoral race, had been begging them not to keep building hotels because they did not have full capacity.

Ms. Reed stated that she was aware that the City had three or four of these deals lined up at this time. She stated that she would like to have a copy of every agreement the City had with regard to this at this time.

Ms. Reed stated that she was still looking forward to the City giving a four percent pay raise to the City employees, noting that Athens had done this and that she hoped they would remember this when it was time to prepare a new budget.

Mr. Dwight Wright, 2005 Kildare Street, appeared before the Council, stating that he had a packet of information he would like to provide to each of the Council members.

President Russell asked Ms. Stamper to get these packets from Mr. Wright.

(Submission by Mr. Wright)

Mr. Wright stated that he was addressing the Council at this time, being hopeful that they could find a solution to assure the survival of the historic McCormick House. He stated that this was also known as Kildare, the O'Shaughnessy House, or simply the Castle that towered over Oakwood Avenue.

Mr. Wright stated that Kildare was listed on the National Register of Historic Places, and that according to Bob Gamble, Chief Architectural Historian for the Alabama Historical

Commission, it was "The most important Victorian mansion remaining in Alabama."

Mr. Wright stated that he had purchased this property in 2007, with the dream of restoring it, but that, unfortunately, this dream had become a nightmare. He stated that the property had become the target of constant harassment and trespassing, noting that more than 150 police reports had been filed. He continued that the harassment included excessive horn blowing, shouting of obscenities, threats made against their lives, violent sexual threats, rocks thrown at the house and its residents, and packs of persons running through the yard. He stated that while these acts had been targeted at the McCormick House and its residents, they most assuredly had a major impact on the quality of life of everyone in the area.

Mr. Wright stated that since 2009, he had been working with the City to identify ways to secure and protect this property so that restoration could continue. He stated that the largest obstacle was the right-of-way in front of the house that cut through his yard and went to 30 feet from the road. He stated that he had filed two requests to vacate a portion of this right-of-way and that both requests had been approved by Huntsville Utilities but denied by the City. He stated that since his requests had been made, the Council had approved 13 other requests to vacate rights-of-way.

Mr. Wright stated that his question for the Council was what criteria were used to determine when such requests were

granted and how the other 13 cases were different from his and why was maintaining control over this unusable piece of land more important than preserving an important part of the city's history and ensuring the quiet enjoyment of their property for all the residents in the area, and why, even when the City was offered much more valuable and usable property in exchange, were these requests still denied.

Mr. Wright stated that in July, the Council had approved a license agreement granting him permission to build a fence in the right-of-way. He stated that this license agreement, which had been placed on the agenda by the City Attorney, included absolutely no restrictive or descriptive language concerning the fence. He stated that prior to the commencement of the construction of the fence, he had contacted every City department that he believed would have jurisdiction over fences to see if his design was erectable. He stated that the design violated no City ordinance concerning fences.

Mr. Wright stated that it was only after he had been granted this license, with no restrictions, that he had made the sizeable investment to build this fence to protect his property, its residents, and the neighbors. He stated that he had invested more than \$15,000 in the fence, which he noted was an investment made with the Council's approval and with no restrictions.

Mr. Wright stated that it did not appear to him to be fair or just that the City was now threatening to revoke the license

for this fence.

Mr. Wright stated that he had one final question: "What were you doing at 2 a.m. Sunday morning?"

Mr. Wright stated that he, rather than being asleep in bed, was sitting on the side of Kildare Street with a neighbor and the police.

Mr. Wright stated that a vehicle with five juveniles had parked in front of his nearly blind, 84-year-old neighbor's house, and that two males had gotten out and approached his property, while yelling obscenities and challenges. He stated that at this time they were having to live under not only the threat of harassment from strangers but also under the threat that the City would take away the only protection they had. He stated that no one should have to live under the circumstances, not him or his neighbors.

Mr. Wright stated that he had done everything he could think of to secure this property and address these problems. He stated that he truly believed in the value of historic preservation, but that he had reached his limit. He stated that if they could not find a way to keep the currently designed fence in the location the City had approved the prior year, with no restrictions, he would be forced to abandon this project and the McCormick House would be torn down. He stated that the fence was temporary, but the loss of this great treasure would be forever.

Mr. Wright stated that the packets he had just provided to

the Council members had included a petition signed by 49 of the residents surrounding this property, noting that they were in favor of the fence at its current location and its current height, its current design.

Mr. Wright stated that some of these persons were present in the audience at this time to show their support and asked that they stand at this time to make that known.

(Several persons in the audience stood.)

Councilman Kling stated that he had spoken with Mr. Wright and had also gone out to look at the neighborhood. He stated that there were some similarities with some of the issues that they had had in Merrimack and Lowe Mill while fighting for historic preservation and improvements.

Councilman Kling stated that there was another gentleman in the area who had had a concern about access to his water meters, but that he understood the design of this had been done in a way that the other gentleman would have access to the water meters.

Councilman Kling stated that, based upon what he had seen and heard, he felt there was merit to what Mr. Wright had stated, noting that no one had advised him beforehand that his fence could only be so high. He stated that it was a big fence, but he felt that with the final things done, it would fit in with the house and the neighborhood. He continued that he believed the neighborhood had shown that they supported keeping the fence there. He stated that with the provision

that the water meter access be available for the other property owner, he would support what Mr. Wright was saying.

Mr. Wright asked if he could respond to Councilman Kling's comments.

President Russell stated that Mr. Wright could do so but to keep his remarks brief.

Mr. Wright asked that the Council members keep in mind that the construction of the fence had not been completed. He stated that during the initial stage of construction, persons were very concerned because it looked horrible. He continued that this was just in the beginning, that it would be an attractive fence.

Mr. Wright stated that there had been a lot of conversation about the water meters, noting that these meters were actually in the right-of-way in front of his property. He stated that he had offered to have these water meters moved prior to the commencement of construction of the fence. He continued that he had tried to work this out so there would be absolutely no problems, and that he had agreed with Huntsville Utilities that he would pay the cost to move the meters so there would be no issue, but the neighbor had refused to let this happen.

Mr. James Ray, 2002-B Virginia Boulevard, appeared before the Council, stating that he lived right behind the McCormick House. He stated that he had lived at that residence for more than 20 years and that he knew Delila and Dwight, as well as

previous owners, and he did not believe he had ever seen two people work as hard as they had to improve the property.

Mr. Ray stated that he was retired at this time, but when he had worked, he had done a lot of maintenance and repair. He continued that the construction of the fence in question was superb. He stated that he believed that once the fence was completed and capped, it would absolutely be an improvement to the neighborhood. He continued that he was proud to be part of this and he was proud to be their neighbor.

Ms. Amanda Hodges, 113 Barrell Avenue, appeared before the Council, stating that she had previously lived directly across the street from the Kildare Mansion, at 2006 Kildare. She stated that two years prior she had had no choice but to move her children out of the neighborhood for their safety, noting that she had three small children. She stated that they had moved from the North Precinct to the South Precinct.

Ms. Hodges stated that persons in her old neighborhood had wanted to protect their neighborhood, and that this had gone on for years. She continued that the problems were not with just one person, that it concerned the entire neighborhood.

Ms. Hodges stated that when they had moved away from the neighborhood, her twins were eight and her youngest child was five, and that her daughters had not been able to play out in their yard because persons were so concerned about looking at the Kildare Mansion, they would drive through their yard and would not look, and that at times her children were in the

yard. She continued that persons would park in her yard, just to scream vulgar obscenities at a house. She stated that at one point persons were parked next to the window of her four-year-old, and her child had come out and asked her what the word for kitty-cat was. She stated that there had been a group of boys parked out in her yard screaming that at the mansion. She stated that she had then gone out and asked them all to leave her yard, but they had refused to leave and kept yelling these obscenities.

Ms. Hodges stated that all the neighbors had been harassed, and that this had gone on for a long time, noting that she had lived there for three years. She stated that she had been told by a police officer one time, in the middle of the afternoon, that she should take her children inside, that she should disassociate herself from the homeowners and that would make a difference.

Ms. Hodges stated that that was not the problem, noting that the entire neighborhood had become friends, that they all shared meals together, that they had holidays together and were all one big family, that everyone helped each other in times of need. She stated that anyone who did not live on Kildare Street could not comprehend what this neighborhood had gone through, that there were just hours and hours during the night that they lost sleep because of the constant harassment, horn blowing, and screaming.

Ms. Hodges stated that these actions were not just done by

teenagers, that there were adults participating in this. She stated that at one time the police had stopped a vehicle of teenage girls who kept driving around the block harassing them and that one of the mothers had been driving them around, and that she was involved just as much as the teenagers were. She continued that persons had done donuts in the yards, yelled, screamed, thrown rocks at them, thrown half bottles of Gatorade at them from moving cars, threatened their lives, when they were just standing out in the open in the yards. She stated that when they had been threatened, they had not been saying anything to these persons except "What do you want?"

Ms. Hodges stated that these problems had gone on for more than four years and at times she had felt like this little neighborhood had been put in a very isolated position. She stated that there were persons who would park down the street, park in her yard, in the middle of the night, and wearing dark clothing, walk up to their houses, and they would have no idea of what these persons' intentions were.

Ms. Hodges stated that everyone wanted peace in their home, that that was what she wanted and that was what everyone wanted. She stated that she certainly never got peace in her home on Kildare Street. She stated that she absolutely loved that house and that she missed her neighborhood terribly. She continued that she finally had peace at this time because she had had to move.

Ms. Hodges stated that she felt it was very important for

this fence to be put up so that she and her daughters could go back and visit and know that they would be safe in their old neighborhood.

Ms. Dee Johnson, 2108 Kildare Street, appeared before the Council, stating that she would like to voice her concerns about the instances that happened on their street. She stated that she had been a member of Community Watch and that they would have to patrol at night. She stated that she had grandchildren and that she was concerned about persons who would stop in the middle of the street. She stated that when one turned off Oakwood onto Kildare, there was a slight hill, and that persons stopped and one would have to stop because they were stopped, and there would be concern that someone might hit you because you were stopped in the street.

Ms. Johnson stated that the persons who would come into the neighborhood would start speeding down the street when they saw the Community Watch car come around, and that there were children who lived on the street. She stated that at any time of the day persons were speeding down the street, et cetera. She stated that many people would just be riding around and around and that she believed having this fence up would deter persons from coming and gawking and making advances, et cetera. She stated that she had been at Delila's house and had seen the rocks that had been thrown. She stated that she believed for their protection and the protection of the rest of the community, it would be best if the fence were put up.

Ms. Peggy Parker, 2307 Kildare Street, appeared before the Council, stating that she had watched the goings-on in front of the Kildare House. She continued that this was Delila's home, that this was where she lived. She stated that she was doing the same thing that any other person would do, that she was trying to protect her home, that she was trying to put on some kind of security. She stated that when one turned off Oakwood to go onto Kildare, a lot of times one could not turn because of the cars parked, looking at the house, shining their lights into the house.

Ms. Parker stated that this was a great home in the city, that it was a historical site, but it was also someone's home in which they lived and that they deserved privacy. She continued that if it took a huge fence to do that, it should be done, noting that all persons had a right to privacy in their homes.

Mr. Gregory Johnson, 2108 Kildare Street, appeared before the Council, stating that he had lived on this street since 1975. He stated that he was a lifelong resident of the city, noting that his family had previously lived on Mountainview, which he noted intersected with Kildare. He stated that he had been familiar with the McCormick House all his life and that in the prior 30 years, these were the only people who had taken an interest in saving this house. He stated that he felt it would be a shame if the house had to be torn down on account of punks and morons riding up and down the road and harassing these

people when all they were trying to do was preserve a house that was on the National Historic Register. He stated that he was tired of it and that he hoped the Council would do the right thing and vote to let them put up the fence.

Mr. Johnson stated that he did not believe any of the Council members would put up with persons coming into their yard and coming up to the door and beating on it in the middle of the night, and hollering obscenities. He stated that if the fence did not get erected, they needed to assign the Police Department two or three persons to be on patrol at the location at all times. He stated that this had gotten out and had been on YouTube and it was just a thing for kids to do. He continued that, however, it was not just kids, that it was also parents with their kids.

Mr. Johnson stated that the property owners were trying to do what was right in preserving the house and that as a lifelong resident of the city, he wanted the house preserved. He asked that the Council do the right thing and allow the fence to be erected, noting that it was the property owners' right to put it up, that it was their right for privacy.

Mr. Johnson stated that he was in favor of the fence and in favor of saving the house.

President Russell asked Mr. Joffrion to provide an update to the Council on this issue.

Mr. Joffrion stated that he would like to correct a few things. He stated that he would not go into whatever

conversations may have been held between Mr. Wright and members of the Engineering Department regarding the specifications for the fence except to say that the Engineering Department never had any idea that the fence would be 12 to 15 feet tall. He continued that had they known that, they never would have approved it.

Mr. Joffrion stated that Shane Davis and Kathy Martin were present at the meeting and could respond to this if necessary.

Mr. Joffrion stated that he believed there was a misunderstanding about whether or not a fence was allowed, period. He stated that the owner of the property could erect a fence on his property at any time he might desire to do so and it could be of the same dimensions and size as the fence that had been erected in the City's right-of-way.

Mr. Joffrion stated that the issue was that the City had granted a privilege to erect a fence within the right-of-way, noting that this was not a right, that the owner did not have a right to erect a fence within the right-of-way, but that the City had granted that privilege. He continued that the dimensions of the fence greatly exceeded anything that was contemplated or anticipated, and that, in the opinion of the City Engineer, it constituted a traffic hazard for the general public.

Mr. Joffrion stated that the issue was not whether the owner could erect a fence, reiterating that he could have the same fence on his property line if he so desired. He continued

that the owner could have done this years prior. He stated that this was an issue of what was allowed within the right-of-way, what the City was willing to accept within the right-of-way.

Mr. Vince Mingione, 3049 Box Canyon Road, appeared before the Council, stating that Publix was just attempting to get their beer and wine licenses moved up prior to the date of the opening of the downtown Publix, noting that they were trying to have this opening on May 7.

President Russell stated that this item was on the Council's agenda as 15.cc and that they would be taking it up later in the meeting.

President Russell stated that the next person to have signed up was Troy Layne.

Mr. Wright stated that Mr. Layne had had to leave but that he had left a statement.

President Russell asked that Mr. Wright present this to Ms. Stamper.

(Submission by Mr. Layne)

President Russell stated that the next item on the agenda was Board Appointments to be Voted On.

Councilman Showers read and introduced a resolution to reappoint Alan Bibb to the Madison County Communications District Board (Enhanced 911 Board), for a term to expire April 30, 2017, as follows:

(RESOLUTION NO. 14-242)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

Councilman Showers read and introduced a resolution to appoint Michele Watkins to the Community Development Citizens Advisory Council, for a term to expire April 14, 2017, as follows:

(RESOLUTION NO. 14-243)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver and was unanimously adopted.

President Russell stated that the next item on the agenda was Board Appointment Nominations.

President Russell nominated Marlana Primeau for appointment to the Madison County 310 Board, for a term to expire April 1, 2017.

Councilman Kling nominated Debbie Reed Batson for reappointment to the Huntsville-Madison County Railroad Authority, for a term to expire May 17, 2021.

President Russell stated that the next item on the agenda was Approval of Expenditures.

Councilman Kling read and introduced a resolution authorizing expenditures for payment, as follows:

(RESOLUTION NO. 14-244)

Councilman Kling moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver

and was unanimously adopted.

President Russell asked Councilman Kling if there was a Finance Committee report at this time.

Councilman Kling replied in the negative, stating that, however, Mr. Taylor was ready to bring information to the Council for the mid-year budget review. He continued that he would like to ask that rather than the Council having a separate work session meeting to hear this, they could give Mr. Taylor 15 minutes at the next Regular Meeting of the Council to provide a brief overview concerning this. He stated that if this were handled in this manner, it would reach more people because of being televised.

President Russell stated that the matter would be placed on the agenda for the next Regular Meeting of the Council, on Thursday, April 24, 2014.

President Russell stated that the next item on the agenda was Communications from the Mayor.

Mayor Battle announced the following appointments:

Joey Aiello to the Air Pollution Control Board, for a five-year term to begin April 11, 2014, and expire April 11, 2019.

Dr. Yong Wang to the Air Pollution Control Board, for a five-year term to begin April 11, 2014, and expire April 11, 2019.

Mayor Battle stated that there was a position open on the Historic Huntsville Preservation Commission. He continued that

the Five Points Community had provided them three excellent nominations for that position.

Mayor Battle announced the following appointment:

Mr. Mike Holbrook to the Historic Huntsville Preservation Commission, for a six-year term to begin May 3, 2014, and expire May 3, 2020.

Mayor Battle stated that Operation Green Team would like to invite everyone to the Earth Day Celebration at Hays Nature Preserve on the following Saturday, from 10 a.m. until 2 p.m. He stated that the community partner for this event was Boeing, noting that Boeing had supported this for many years. He stated that if persons would like to come out early, at 8 a.m., they could go bird watching. He stated that at the event there would be more than 70 exhibits and there would be activities for children. He stated that there would be a mass butterfly release at noon, sponsored by the Alabama Cooperative Extension System. He thanked the Green Team, as well as other City departments, for their efforts in putting on this event, noting that it was a great way to start spring.

President Russell stated that the next item on the agenda was Communications from Council Members.

Councilman Kling asked Mr. Dennis Madsen, Manager of Urban and Long-Range Planning, to come to the microphone.

Councilman Kling stated to Mr. Madsen that he was aware that he had been working on a lot of different projects, and that he had been able to go out with B.J. Robinson and

Michelle McMullen to two different neighborhoods in West Huntsville. He asked Mr. Madsen if he had any concepts, ideas, et cetera, that he could share as far as how West Huntsville might benefit from this comprehensive plan.

Mr. Madsen stated that they did not have anything fully developed, that it was still very much in the planning phase. He stated that when he had first been hired by the City, he had stated that he was going to spend a lot of time initially doing a lot of listening. He stated that that was really where they were in this planning phase, was doing a lot of their homework, especially within the Planning Department. He stated that he had been talking to community organizations all over the city but had a lot still to schedule. He stated that the West Huntsville neighborhood had been pretty good in their outreach to the Planning Department, noting that they had done the tours with B.J. Robinson and Michelle McMullen.

Mr. Madsen stated that many neighborhoods had challenges with how they were growing, or perhaps how they were not growing. He stated that in that West Huntsville area they had discussed how the corridors were a challenge, the Patton Road and Triana corridors, as well as some of the blight on Patton Road. He stated that he believed Triana had a lot of possibilities, noting that he believed they could do a better job on controlling traffic speeds and traffic flow, resulting in a better pedestrian environment. He stated that this would also apply to Governors Drive, noting that it had a lot of

potential for redevelopment. He stated that by taking action on these corridors, they could actually do a lot for the interior of these areas.

Mr. Madsen stated that they were still spending a lot of time looking at this, as well as looking at neighborhoods all over the city.

Councilman Kling stated that he was aware that there were some other areas and large projects, et cetera, that Mr. Madsen had been working on, but that he had just wanted to wave a flag concerning the West Huntsville area.

Mr. Madsen stated that as they got more into the comprehensive planning process, he believed they should do a semi-regular work session with the Council, to keep them abreast of what was going on in this regard. He continued that he felt this might be a good way to keep the Council up to date on this.

Councilman Kling stated that there was another issue that had been in the newspaper lately, being the situation in the Mayfair neighborhood concerning the traffic flow issue. He stated that there had been a court case concerning this, in Circuit Court, where the neighborhood had prevailed, and the case had then been appealed to the State appellate court. He continued that during this time, the enforcement of the Judge's order had been placed on hold. He stated that in the past week, the three-member State appellate court had ruled for the neighborhood, to uphold the Circuit Judge's order.

Councilman Kling stated that at this time no further appeal had been filed, noting, however, that Mr. Joffrion felt there would be an appeal, which would be to the State Supreme Court.

Councilman Kling stated that since four judges, from two courts, had ruled in support of the neighborhood on this issue, he would like to ask that the Council go ahead and provide enforcement to the neighborhood. He continued that, of course, if there would be a prevention order from the State Supreme Court, that would overrule any action the Council might take. He stated that until someone advised them they could not enforce what the two courts had ruled on, he would ask that they go ahead and give the City departments the go-ahead to provide the enforcement, as had been ordered by the Judge.

President Russell asked Mr. Joffrion to advise the Council on this matter.

Mr. Joffrion stated that the Council had a couple of options in this matter, but he believed they should be aware of the risks in exercising these options. He stated that Councilman Kling was correct that the Court of Civil Appeals had ruled in favor of the neighborhood and against Ann's School of Dance. He stated that if the City were to move forward with enforcement, he would ask that the Council authorize the Administration to do this by resolution. He continued that no individual member of the Council could direct this and stated that it was for their own protection that they would act as a

body to do this.

Mr. Joffrion stated that he had been notified by the attorney for Ann's School of Dance that he was going to first ask for a rehearing before the Court of Civil Appeals and that if that were not successful, he would move on to the Supreme Court. He stated that there was no guarantee that the Supreme Court would uphold the decision of the appellate court, although he felt it was reasonable that they would, that they might.

Mr. Joffrion stated that pending the appeal, if the enforcement caused adverse economic consequences to Ann's School of Dance and the Supreme Court later came back and reversed the decision of the Court of Civil Appeals, there would undoubtedly be some sort of legal action against the City for that enforcement, and that the risk of Ann's Studio of Dance being successful would certainly be heightened if they had contributed to some demise on her part, as far as her business.

Mr. Joffrion stated that he just wanted the Council to be aware of the risk, that if the Supreme Court did reverse the decision, there might be adverse consequences for the City. He stated that he certainly understood the neighborhood's frustration with the parking issues and he did not intend to diminish these at all. He stated that he would definitely know within the next week or so whether or not a motion for reconsideration would be filed. He stated that, as persons

were aware, appeals of this nature took many months, so that it could be six months to a year before this matter would be finally resolved. He continued that the Council might be willing to take the risk of enforcement, given the concerns of the neighborhood.

Councilman Kling stated that he understood what Mr. Joffrion was talking about and that certainly they wanted to be reasonable on these things, but he did not feel they should forget the rights of the neighborhood. He stated that the Council had heard from them on numerous occasions, that they had appeared before the Planning Commission, that there had been a long history of telephone calls, emails, et cetera, back and forth, with residents of the neighborhood.

Councilman Kling stated that it appeared they had two conflicts, one being the rights of the owner of the dance studio and the other the rights of the residents of the area. He stated that he did not feel the Council would be acting irresponsibly, in that they would be basically following the guidelines that had been set out by the Circuit Court in Madison County and also by the State appellate court.

Councilman Kling stated that he would be glad to put a resolution together, or a motion, saying that they would go ahead with enforcement, pending any further action on this matter. He asked Mr. Joffrion if he understood correctly that just because something was appealed to, for instance, the Supreme Court, that would not necessarily mean that everything

had to stop, that unless the Supreme Court would come out with an order to the City of Huntsville to cease enforcement, they would still be within their responsibility to provide enforcement for the neighborhood.

Mr. Joffrion stated that basically that was correct. He continued that the order would not be from the Supreme Court, that any type of order to stop the City from enforcement would come from the trial court. He stated that unless there would be an order from a court, it would not prohibit the City from enforcing the order.

Councilman Kling moved that the City of Huntsville move forward with enforcement of the Circuit Court's and State appellate court's orders concerning the Mayfair Neighborhood versus Ann's Studio of Dance.

Said motion was duly seconded by Councilman Showers.

Councilman Kling stated that part of this would be that if the State Supreme Court came back and said, "Huntsville, we want you to hold off until we have heard the case," that certainly he would understand that, that they were not just trying to go blindly with this. He stated that, however, pending any direct order from a higher court, he felt they should support the two court decisions that had already come out.

President Russell stated that he felt the Council should wait until their next meeting to take any action on this matter, noting that he was a little leery of this because of

the advice the Council had just received from the City Attorney. He stated that he most likely would be in favor of a resolution of this type, but that he needed some more time to consider it.

Councilman Olshefski stated that he agreed with President Russell on this. He stated that he would like to have the opportunity to discuss the matter further, that he was not saying they should run from it, that he supported what Councilman Kling had stated, but he was not prepared to make this decision at this time, with the concerns that had been set forth.

Councilman Kling asked Mr. Joffrion if the neighborhood had any legal rights to sue the City for noncompliance with court orders that had been issued.

Mr. Joffrion replied in the negative, stating that the City was not a party to the litigation.

Councilman Kling asked if since there had been an order issued by a judge that had been upheld, if the City was not bound to it. He asked if the City would be seen as being derelict in their duty by not doing what the Judge had ordered them to do, especially after it had been upheld.

Mr. Joffrion stated that the Judge had not ordered the City to do anything, that the Judge had ordered Ann's School of Dance to do something. He stated that the City would be involved in the enforcement of it but was not a party to the litigation, so that the Judge's order would not be applicable

directly to the City.

Councilman Kling stated that he understood that the City was not a party to the action but asked if the City would not be responsible for the enforcement of the order.

Mr. Joffrion stated that the City was not going to be responsible to the neighborhood for any kind of civil action. He stated that City government did have a moral obligation to support its residents and that they enforced their Code of Ordinances. He stated that the Judge's order was not actionable against the City.

Mr. Joffrion stated that they had waited many, many months on this litigation, and that it really would be wise to give this another two weeks so that they could fully vet this matter before the Council made a decision on it. He stated that it appeared there was some level of discomfort among some Council members and stated that another two weeks would really not hurt much.

Councilman Kling stated that there was a lot of discomfort to him because he felt there had been a lot of foot dragging on this issue. He stated that he wanted to keep this on an issue basis, but noted that it had gone on for a long time, that the neighborhood had gone through the process, that they had come before the Council, et cetera. He stated that neighborhoods within his district and in other districts had come before the Council when there had been a problem, and that he believed all the Council members had tried to work on such things, but that

with this matter, it appeared that no matter what got done, there was always a problem.

Councilman Kling stated that there had been traffic signs that were put up in the neighborhood, and that there was a problem with the Police Department enforcing the "No Left Turn" traffic signs. He continued that these had been placed there by the City Department of Transportation.

Councilman Kling stated that he felt this neighborhood, after all this history, deserved the same respect that was given to other neighborhoods. He stated that this was not saying that one neighborhood was better than the other, that the Council tried to do the best they could for all neighborhoods in the city.

Councilman Kling stated that he just felt there was not any fair treatment that was going on concerning this matter. He stated that he heard from persons in this neighborhood every week and that there was a history of emails on this issue going back at least three, or possibly four, years.

Councilman Kling stated that the neighborhood had gone through the legal process, that they had gone to Circuit Court, and a decision had come out, and it was appealed. He stated that it appeared that the courts were ruling in favor of the neighborhood, and given the fact that the State appellate court had upheld this, he did not feel they would be irresponsible in enforcing what was on the books, unless the State Supreme Court would come back with a stay, that they should wait until the

case was heard. He stated that he would certainly understand that, that that was the legal process, and they would follow it. He continued that until this happened, it seemed to him that the City should be an advocate to do what they could for the neighborhood, especially when there were already two decisions in favor of the neighborhood.

Councilman Kling stated to President Russell that he had issues in his neighborhood and that he was there to try to do what he could, and that the same was true with Councilman Olshefski. He stated that he was aware that there had been one matter they had disagreed on, but that he had voted in a similar manner when Councilwoman Moon had been on the Council.

Councilman Olshefski stated that he did not disagree with what Councilman Kling was saying. He continued that Councilman Kling had just made a comment about a left-turn against a traffic sign. He stated that this matter did not appear to have anything to do with this issue, noting that they should be taking care of that as it was. He stated that Mr. Joffrion was advising them just to be careful on this matter, and that they were saying they needed two more weeks to be careful. He stated that Councilman Kling was handwriting out a resolution, where it took some time to draft a proper resolution. He continued that the Council members were not saying that they were opposed to this, that they would just like to be able to discuss the matter until the next meeting of

the Council.

President Russell asked Councilman Kling why there had not been a resolution prepared so that the Council members would have had the opportunity to study it. He stated that if the resolution had been prepared, with the assistance of legal counsel, prior to the meeting, it might have had a better chance of passing.

Councilman Kling stated that his being told that he needed the resolution came within an hour of the commencement of this meeting. He stated that he had emailed Mr. Joffrion on the morning of this date, and that had been the response he had received. He stated that he was doing the best he could on this.

President Russell stated that it would have been perfectly fine to have put a resolution on the agenda on Tuesday so that the Council members could have studied it. He stated that they were just asking for a little time on this because Mr. Joffrion had advised them to do so. He continued that he believed it would be wise to do that, but perhaps the other Council members did not agree with this.

Councilman Culver stated to Councilman Kling that he certainly shared his concerns on this and that he had committed to him in terms of doing what he could to help in this matter. He stated that he did believe it would be good if they "measured ten times and cut once" in this matter.

Councilman Culver stated that he was concerned about the

case law that would be used in this case if there were to be a case on point. He stated that he would like to have an opportunity to look into this. He stated that he did believe they would most likely be able to assist the neighborhood.

Councilman Showers called for the question.

Councilman Showers stated that a call for the question was to end the debate.

Said motion was duly seconded by Councilman Culver.

President Russell called for the vote on the above motion, and the following vote resulted:

AYES: Showers

NAYS: Culver, Olshefski, Kling, Russell

President Russell stated that the debate would continue.

Councilman Kling stated that he would like to say for the record that in the prior week, he believed it was, he had sent an email to both Mr. Joffrion and Mr. Tommy Brown, Director of Parking and Public Transit, basically saying that he had found out about the court case ruling in favor of the neighborhood and that he would like to see enforcement started. He stated that he believed he actually had a response from Mr. Joffrion, to the effect of, "Yes, sir, we will," or something of that nature.

Councilman Kling stated that a resident of the neighborhood had gotten a copy of the Court's 26-page decision on this matter and that he had forwarded it to Mr. Joffrion and Mr. Brown. He stated that earlier in the day he had sent an

email to Mr. Joffrion asking when the enforcement would be started, and then he had been told something very similar to what Mr. Joffrion had previously stated, that there was the right to appeal and that if an appeal was taken, it was likely that the enforcement would be stayed pending the outcome of the appeal. He stated that he certainly understood this. He stated that all he was asking was that they, basically, did not do Ms. Brown's lawyer's work. He stated that if the Court stopped them from enforcement, that would be fine, but stated that he thought that after two decisions, they would have the City being on the neighborhood's side.

Councilman Kling stated that he could tell that the votes were not present for this, so that he would just drop the issue. He stated that this seemed to show that they did not have much regard for the State appellate court.

Mayor Battle stated that he thought the order called for the Dance Studio to start busing persons in. He continued that the City officers could not enforce that. He asked what they would charge them with. He stated that the only thing the Studio could be charged with would be contempt of court by not following the Court order. He stated that, therefore, No. 1, the City officers did not have anything to charge them with, and, No. 2, if the Council tried to do something that was beyond the purview of the City, or if Ms. Brown did appeal, if she had lost business, the City would be liable for that; and if she closed down, the City would be liable for that; and if

the building became vacant and then could not be sold for what she had in it, they might have some terrific financial liability. He stated that they had to be careful through this. He stated that the court order was by a circuit judge, that it was with Ms. Brown and the neighborhood, that the City could not enforce it, that it would be a contempt of court enforcement.

Mayor Battle stated that he understood that tickets were being written for persons making turns against the "No Left Turn" sign. He asked Chief Jackson of the Police Department if this was correct.

Chief Jackson replied in the affirmative.

Councilman Kling stated that he was going to have some phone calls concerning this matter and that when they came in, he was going to start referring them out to others. He stated that they should keep in mind that persons in this neighborhood had had some issues as far as real estate values because of the traffic problems that were going on, noting that this was a two-edged sword. He stated that members of the neighborhood, at his request, had not been in attendance at this meeting. He stated that if the consensus of the Council was that they would visit this matter in two weeks, he certainly understood that.

President Russell asked Councilman Kling if he was withdrawing his previous motion concerning this matter.

Councilman Kling stated that based on the discussion, he would withdraw the motion.

Councilman Showers withdrew his second.

Councilman Showers asked that the record reflect that members of the Johnson High School Alumni were present at the meeting.

Councilman Showers asked if the Chief of Police was present at the meeting.

Mayor Battle stated that Chief Jackson was present.

Councilman Showers stated that he was asking if the Chief of Police was present.

Mayor Battle replied in the negative.

Councilman Showers stated that at this Council meeting and the prior Council meeting, when he had asked for the chief's presence, he had not been in attendance at the meeting.

Councilman Showers stated that he had been delighted earlier in the week to visit Montview Elementary School, noting that the group KARMA, who had presented to the Council earlier, had made their first presentation at Montview, with the elementary school students, and that it concerned stopping bullying. He noted that this group had done an excellent job with this. He stated that earlier in the day the group had done a similar presentation at Ridgecrest to the elementary school students and that he was delighted to have been a part of that. He stated that they certainly did not want an incident like had taken place in another school outside the city to happen in Huntsville.

Councilman Showers stated that earlier in the week he had

attended a ribbon-cutting at the Academy for Science and Foreign Language, noting that there had been a ceremony acknowledging the contributions of the persons who had started the first academy at that location 25 years prior.

Councilman Showers stated that on the following Saturday he would be attending a Sunday School workshop at the Draper Memorial Church of God in Christ.

Councilman Showers stated that on April 17 the Annual UNCF Gala Dinner would be held at the Von Braun Center. He stated that in the past the Council had always supported this effort and that he would be in attendance to support Oakwood University.

Councilman Showers stated that on April 19, it would be the Oakwood Alumni weekend, noting that this would also be held at the Von Braun Center. He stated that he would be bringing greetings at that particular ceremony, as he had done for the prior 25 years. He stated that this event generated a lot of revenues for the city.

Councilman Olshefski stated that Mr. Shane Davis, Ms. Kathy Martin, and Mr. Terry Hatfield had been down in a ditch with him in his district, concerning water issues, noting that this had been a problem for four or five years. He continued that they were working with him about the backup of the water. He stated that they had also looked at the issues of another creek in the area and stated that, as always, they had been very helpful to him in these matters.

Councilman Olshefski stated to Chief Jackson that one of his constituents had seen an officer driving too fast, and that he had forwarded this information to an officer, and it had been about a week, and he was looking for some answers concerning this. He stated that the numbers concerning this were in the email.

Councilman Olshefski stated that there was a problem in his district with dangling cables and wires, concerning cable TV, and other kinds of cables. He continued that he believed this would also be in other districts in the city. He stated that when these cables or wires were cut, they were just left hanging, or they would let them run down the pole and then wrap them up. He continued that he was not sure he really wanted this, either. He stated that his constituents were taking pictures, et cetera. He stated that he was going to advise his constituents that they just needed to take pictures and follow the application they had on their cell phones at this time and send them in, and the right persons would be sent out to make this look more professional.

Councilman Olshefski displayed some photographs of dangling wires which he stated were in his district. He stated that this was just an indication of a few, that this problem was more prevalent than one might think, that it was pretty bad. He stated that, first of all, he would like to be advised as to who handled this in the City and would go out and take care of it.

It was suggested that it was ITS, and it was suggested that it was Huntsville Utilities.

Councilman Olshefski stated that they did not need to have a debate on this but noted that he was becoming somewhat of a professional on the matter. He continued that they did not even know whose cables these were, that there could be four different outfits, and that what would happen would be that no one did anything. He stated that if it was ITS, that was great, and stated that once the picture was done, he was assuming that ITS would then send someone out to look at it and determine which cable company, TV company, or all the above, and get them to fix it, or if it would be something the City would handle.

Mayor Battle stated that they would also check with Huntsville Utilities concerning this matter.

Councilman Kling stated that he would like to correct something that he had stated in his earlier discussion. He stated that he had emailed Mr. Joffrion about enforcement of another matter and that that was what Mr. Joffrion had responded to with, "Yes, we will take care of it." He stated that he had sent Mr. Joffrion two emails concerning the specific issue he was discussing earlier, and that the first response he had received was on the current morning at approximately 10 a.m. He stated that he had just wanted to correct this.

Councilman Culver stated that he had had an enjoyable trip

to Montgomery, although he had not been successful in terms of bringing back more of the gasoline tax to North Alabama. He stated that he had made this an issue, noting that he had learned that it was not even 55 cents the City received, that the Legislature took 43 percent of that off the top, and then the City got another 80 percent of the 55 percent, somewhere in that area. He stated that they were certainly not getting their pro-rata share. He stated that the Governor had said that he would revisit this matter. He continued that other counties were getting \$4.57 back on their gasoline dollars.

Councilman Kling stated that the inmate labor crew, the inmate labor and the inmate labor supervisors, had done a great job during the week. He asked Chief Jackson to relay that to Chief Morris. He stated that they had cleaned the Parkway, I-565, and Airport Road, as well as other areas in the city. He stated that they were very vital to the effort of keeping Huntsville beautiful.

Councilman Culver commended the Police Department on the manner in which they had handled the situation the prior week, where, unfortunately, a citizen had been killed. He stated that the SWAT team and the Huntsville Police Department, as well as the Sheriff's Department, were involved in this. He stated that he had been by to visit with Officer Jason Moore on that date as he was being released from the hospital, and that he was home and recovering well.

Councilman Culver stated that he would be holding a town

hall meeting on April 21 at the Wall Highway Baptist Church. He stated to Mayor Battle that whatever department heads were willing to come out and help them resolve some of the concerns in these communities would be greatly appreciated, as well as would the Mayor if he would be able to attend. He stated that the general public was invited, although the primary purpose of this particular meeting was to address concerns in the Lanier Lakes Community. He stated that any time he had a town hall meeting, all of the Council members were certainly invited, as well as the general public.

President Russell thanked Mr. Patterson, Mr. Ivey, and all the Parks and Recreation crew, noting that he had been able to attend opening day at Mayfair Park and that the fields looked great. He stated that it was so important to community building that there were these parks and recreation opportunities for all the citizens. He stated that Councilman Kling and Mayor Battle had been in attendance with him. He continued that there was more to come, that on the following Saturday, they would be at Oak Park, noting that they always had a great parade. He thanked all the department heads and staff that made these parks great.

President Russell stated that he would like to echo Councilman Culver's statements on Officer Moore, noting that his prayers were with him and his family, that he could not imagine what they went through as police officers, fire fighters, all the City employees who dealt with public safety,

not knowing what was going to happen to them every time they went out on a shift. He stated that it was always heartbreaking when they heard of such incidents.

President Russell stated that the next item on the agenda was Unfinished Business Items for Action.

President Russell moved for approval of Ordinance No. 14-220, annexing land lying on the east side of U.S. Highway 431 South and on the north side of Caldwell Lane, which ordinance was introduced at the March 27, 2014, Regular Council Meeting, as follows:

(ORDINANCE NO. 14-220)

Said motion was duly seconded by Councilman Showers.

President Russell asked Ms. Lisa Leddo of the Planning Department for an explanation of the above ordinance.

Ms. Leddo stated that this was 17.19 acres of property, indicating the area on a displayed map. She stated that it was located on the east side of Highway 431 South and the north side of Caldwell Lane. She stated that the property was currently vacant and was the site of a proposed commercial development. She continued that the owners were annexing for City services.

President Russell called for the vote on the above ordinance, and it was unanimously adopted.

President Russell stated that the next item on the agenda was New Business Items for Introduction.

President Russell read and introduced Ordinance

No. 14-245, annexing land lying on the south side of Olmstead Road and west of Taylor Road.

President Russell stated that the next item on the agenda was New Business Items for Consideration or Action.

President Russell reiterated that items 15.z and 15.aa had been deleted from the agenda.

President Russell read and introduced a resolution authorizing the Mayor to enter into a Cost Reimbursement Agreement with the Northeast Alabama Traffic Safety Office in the amount of \$86,000 for traffic enforcement, as follows:

(RESOLUTION NO. 14-246)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced an ordinance to amend Budget Ordinance No. 13-630 by changing appropriated funding for various departments and funds, as follows:

(ORDINANCE NO. 14-247)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the acceptance of donations, as follows:

(RESOLUTION NO. 14-248)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling

and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an Agreement between the City of Huntsville and Academy, Ltd., d/b/a Academy Sports + Outdoors, as follows:

(RESOLUTION NO. 14-249)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an Agreement with British Soccer, a division of Challenger Sports Corporation, as follows:

(RESOLUTION NO. 14-250)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing a Standard Services Agreement between ManpowerGroup US Inc. and the City of Huntsville, Alabama, for Manpower to provide staffing service to hire and process seasonal employees, as follows:

(RESOLUTION NO. 14-251)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with the Alabama Department of Transportation for the cooperative maintenance of public right-of-way, as follows:

(RESOLUTION NO. 14-252)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to amend the contract with Reed Contracting Services, Inc., for Redstone Gateway Package I-1, Mass Grading, Fine Grading, Erosion Control, Storm, and Pond Liner, Project No. 65-12-SP23, by Change Order No. 2, as follows:

(RESOLUTION NO. 14-253)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with the Alabama Department of Transportation for Grade, Drain, Base, Pave, Signals, and Signing for U.S. Highway 72 from Shields Road to Maysville Road, Project Nos. NH-0002(564) and COH Project No. 65-14-RD03, as follows:

(RESOLUTION NO. 14-254)

President Russell moved for approval of the foregoing

resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into a Release Agreement with LBYD, Inc., for Redstone Gateway, Package 1I-Lake F Expansion, Project No. 65-12-SP23, as follows:

(RESOLUTION NO. 14-255)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into a License Agreement with Norfolk Southern Railway Company for Church Street and Pratt Avenue Widening and Realignment, Phase I, Project No. 65-01-RD05 and ALDOT Project No. STPHV-4500(200), as follows:

(RESOLUTION NO. 14-256)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Norfolk Southern Railway Company for Preliminary Engineering Services for Greenbrier Road, Phase II, Project No. 65-13-RD01, as follows:

(RESOLUTION NO. 14-257)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Stephens Appraisal Services, L.L.C., for Appraisal Services for Zierdt Road Improvements, City of Huntsville Project No. 65-06-RD01 and ALDOT Project No. STPHV-8507(600), as follows:

(RESOLUTION NO. 14-258)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Garver, L.L.C., for Engineering Design Services for Zierdt Road Improvements, Project No. 65-06-RD01 and STPHV-8507(600), as follows:

(RESOLUTION NO. 14-259)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Croy Engineering, L.L.C., for Engineering Design Services for Gateway Greenway, Phase III (Parking Lot), Project No. 65-14-WP01, as follows:

(RESOLUTION NO. 14-260)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an agreement with Garver, L.L.C., for Engineering Services for 2014 Flow Monitoring Program-Annual Operations, Maintenance, Data Analysis, and Reporting, Project No. 65-14-SP20, as follows:

(RESOLUTION NO. 14-261)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to enter into an Agreement with Cintas Corporation for uniform and work wear rental and laundry service, as follows:

(RESOLUTION NO. 14-262)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute Modification No. 14 to Supplemental Development Agreement, TIF5 Series 2010-A, between the City of Huntsville and LW Redstone Company, LLC, as follows:

(RESOLUTION NO. 14-263)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to execute Modification No. 11 to Supplemental Development Agreement, TIF5 Series 2012-B, between the City of Huntsville and LW Redstone Company, LLC, as follows:

(RESOLUTION NO. 14-264)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Clerk-Treasurer to invoke BB&T Letter of Credit No. 96416641870001 for Development Agreement between the City of Huntsville and CBEL/Jones Farm Southwest, LLC, as follows:

(RESOLUTION NO. 14-265)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Clerk-Treasurer to invoke Southpoint Bank Letter of Credit No. 95004012 for Nature's Landing at The Reserve Phase 4 Subdivision, as follows:

(RESOLUTION NO. 14-266)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution authorizing the Clerk-Treasurer to invoke Bancorp South Letter of Credit No. 362000808661 for Stratford at McMullen Cove Subdivision, as follows:

(RESOLUTION NO. 14-267)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling and was unanimously adopted.

President Russell read and introduced a resolution to classify the fund balance of the General Fund consistent with the requirements of State law, City ordinances and resolutions, and accounting standards, as of October 1, 2013, as follows:

(RESOLUTION NO. 14-268)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers.

President Russell asked Mr. Taylor for an explanation of the above resolution.

Mr. Taylor stated that they did this once a year when their audit was completed, which had just happened on March 31. He stated that for most of the items that were listed in the resolution, actions had already been taken by the Council by way of other ordinances or resolutions. He stated that it was

appropriate, because of all the restrictions they had on how they could use their money, that they just set for the record what the final balances were and that the Council affirm its decision regarding each of them. He stated that there was a footnote with respect to each one that explained why it had to be set aside or why they had chosen to attach a label to it for some specific purpose.

Mr. Taylor stated that this was just a comprehensive assessment of all the final year-end numbers.

President Russell asked Mr. Taylor if there were any surprises to him on the list.

Mr. Taylor replied in the negative.

Councilman Kling stated that he believed Mr. Taylor was being a little modest. He continued that he felt it should be pointed out that the City had received a very good report on the audit for the past fiscal year that had just been closed out. He stated that Mr. Taylor and his staff had done a very good job on this.

Mr. Taylor stated that there had been no surprises, that they had not had any significant adjustments from what they had expected when the year-end had closed the prior year. He stated that the numbers were consistent with what they had thought they would be six months prior. He stated that Councilman Kling was referring to the audit that had just been released. He continued that the City had received a clean opinion with respect to that and that they were proud of that.

President Russell stated that the Council was also proud of it.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell read and introduced a resolution authorizing the Mayor to modify the agreement with Land Design Solutions, Inc., for Design and Construction Administration Services for Maple Hill Cemetery Improvements, Project No. 65-14-SP01, by Modification No. 1, as follows:

(RESOLUTION NO. 14-269)

President Russell moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Showers.

President Russell asked Ms. Joy McKee, Director of Landscape Management, why this project was taking six additional months, or whatever the length of the delay was.

Ms. McKee stated that Land Design Solutions had had some complications with some other entities that were doing some surveying, some geotechnical work, and that this was the reason it had been delayed.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

Councilman Showers read and introduced a resolution authorizing the Mayor to enter into a Temporary Easement and Agreement between the City of Huntsville and The Building Church, Project No. 65-14-SP21, as follows:

(RESOLUTION NO. 14-270)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Culver.

President Russell asked Ms. Kathy Martin, Director of Engineering, for an explanation of the above resolution.

Ms. Martin stated that this was an agreement with The Building Church. She continued that the City was granting them a temporary construction easement across the Indian Creek Greenway so they could extend sanitary sewer services to their new facility. She stated that this would allow them to close 20 feet of the Greenway for 48 hours, and to repair it, and install proper pedestrian control around their construction site.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

Councilman Showers read and introduced a resolution authorizing the Mayor to execute a Lease Agreement between the City of Huntsville and RCP Merchants Walk, LLC,, as follows:

(RESOLUTION NO. 14-271)

Councilman Showers moved for approval of the foregoing resolution, which motion was duly seconded by Councilman Kling.

President Russell asked Mr. Davis for an explanation of the above resolution.

Mr. Davis stated that this was the last piece the Council needed to vote on to solidify the Merchants Walk Redevelopment

on the Parkway, which he noted contained the anchor of Whole Foods. He stated that this was the parking lease, which guaranteed exclusive use by the City, to have control, but put all the responsibility for maintenance, upkeep, and total replacement of the garage on the developer. He continued that it also ensured that the developer would pay property taxes on the garage.

Councilman Kling asked if Mr. Davis had any ball park estimate as to when this development would be open to the public.

Mr. Davis stated that they were currently setting up staging for the temporary relocation of Regions Bank at the corner of Bob Wallace and the service roads. He continued that demolition was scheduled to commence in June and stated that they should be open 14 months after that time, so that they would be looking at late summer or early fall of the following year when the entire center should be open.

President Russell called for the vote on the above resolution, and it was unanimously adopted.

President Russell moved for approval of a request for Council approval for an Off-Premise Beer & Wine License for Publix Alabama, Inc., d/b/a Publix, located at 310 Pelham Avenue, Huntsville, Alabama.

Said motion was duly seconded by Councilman Showers.

President Russell stated that the reason for this request was that Publix wanted to open at this location on May 7, 2014,

and the License Review Committee could not approve of and issue the license until May 9, 2014.

President Russell stated that they were trying to help Publix out on this, while also increasing the City's sales tax revenue. He stated that he believed this was a good thing for Publix and for the neighborhood.

Councilman Kling stated that he would support this request. He continued that he was aware that the Council a few times in the past, because of extenuating circumstances, had approved something that because of the schedule the Liquor License Review Committee could not get to. He stated that, therefore, this was not that abnormal. He continued that he did hope that the departments could work so that such matters could be scheduled far enough in advance and applications could come in so that this type action would become the exception and not the norm.

President Russell stated that he certainly agreed with that.

President Russell called for the vote on the above motion, and it was unanimously approved.

President Russell stated that the next item on the agenda was Legal Department Items/Transactions.

President Russell read and introduced an ordinance authorizing the vacation of a 10-foot Utility and Drainage Easement, Lot 8, Block 2, Amhurst Phase VI, Plat Book 45, Page 88 (Poole Drive: Huntsville Investors), as follows:

(ORDINANCE NO. 14-272)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell read and introduced an ordinance authorizing the vacation of a portion of a Utility and Drainage Easement, Lot 21, Block 14, Willowbrook, Plat Book 3, Page 204 (Benton St.: Hofer), as follows:

(ORDINANCE NO. 14-273)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell read and introduced an ordinance authorizing the vacation of a portion of a Utility and Drainage Easement, Lots 157, 165, and 184, River Ridge Phase V (Sedgebrook Drive and Sweetleaf Court: Jeff Benton Development), as follows:

(ORDINANCE NO. 14-274)

President Russell moved for approval of the foregoing ordinance, which motion was duly seconded by Councilman Showers and was unanimously adopted.

President Russell stated that the next item on the agenda was Non-Roster Communications from the Public.

Ms. Jackie Reed again appeared before the Council, stating, concerning the fence and the home on Kildare, that the Council members should drive around in that area. She stated

that on one side of this property was a group home of men. She stated further that she would be afraid to live in the area. She stated that the Council should try to help these persons and figure out what it was they wanted them to do to make the area safe.

Ms. Reed thanked Ms. McKee and the Green Team for the hot dogs and all the friendliness, and the plants, Glad bags, et cetera. She also thanked Mayor Battle for this. She stated that this had occurred on the prior Saturday at City Hall and that it would occur again on the following Saturday at Hays Preserve. She stated that they had plants, et cetera, that it was a great place, and urged everyone to get out to the location early.

Ms. Reed stated that she had attended a County Commission meeting and that she was concerned about something and read as follows: "Authorize Chairman to execute agreement with the City of Huntsville regarding long-term water purchase." She stated that that sounded like a real good thing and stated that she hoped they paid their fair share and hoped that the City of Huntsville never had to turn off the water in the summertime because they were short of water. She stated that they certainly did not want this to happen because they were trying to help the county development. She stated that, of course, they needed all the money they could get, but the city should be first.

Mr. Dwight Wright again appeared before the Council,

stating that he would like to attempt to clarify some of the comments Mr. Joffrion had made concerning the fence, to make sure he understood. He stated that Mr. Joffrion had clarified that it was a privilege to have a fence in the right-of-way and stated that he did fully appreciate that the Council on July 25 had granted him that privilege, noting that everyone had voted for acceptance of that. He stated that Mr. Joffrion had also mentioned conversations with the Engineering Department. He stated that prior to building the fence, he had contacted the Engineering Department, namely Mr. Ron Adams, to make sure that everything was acceptable. He continued that they were told that what they had in mind was acceptable. He continued that the conversations with Mr. Davis and Ms. Martin had all happened after the fence was put up, after all the investment was made.

Mr. Wright stated that where his confusion came in was that he kept hearing there was a concept of the fence, that the City had a concept of the fence. He continued that this had never been communicated to him and stated that he was trying to figure out where they had lost communication in this, that there was such a huge misunderstanding about what he intended to do and what the City thought was acceptable.

President Russell asked Mr. Wright if that was a question for him or a question for the Council.

Mr. Wright stated that he guessed that would be for the Council, noting that Mr. Joffrion had mentioned that that was

not what the City had in mind. He stated that the resolution did not specify what the City had in mind, that the resolution specified nothing about what was acceptable for the fence. He continued that Mr. Joffrion's explanation was that it caused traffic problems. He stated that the fence had started going up on Thursday and that the Monday after that, based on calls someone had made, the City Traffic Engineer, Dennis Thompson, had shown up to inspect the fence, and that he had said there were no problems. He continued that Mr. Thompson had measured to see that they were in compliance, and that he had stated, "The only thing I see wrong is one of the 'No Parking' signs that sits in front of the property is now going to be hidden by the fence. Would you like that moved?" He continued that he had then said, "That would be great. Thank you." He stated that the City had moved the sign.

Mr. Wright stated that his point was he kept hearing about all these problems, but that these problems had not been brought up previously, that they were only brought up after the investment had been made, after a license was granted, with no restrictions.

President Russell stated to Mr. Wright that he had met with him many times and that this fence certainly was not the fence that they had discussed and Mr. Wright had described. He stated that he was not aware of what the Engineering Department had told Mr. Wright, that this was just his recollection. He stated that, as Mr. Wright was aware, he had met with him

several times. He continued that they had talked about much smaller fences, they had talked about metal fences, a chain fence. He stated that Mr. Wright had talked about a tall fence on his own property, but he had never given this description.

President Russell stated that he was not involved with letting this go or not, that he believed Mr. Joffrion would have to answer that.

President Russell asked Mr. Joffrion if he could answer anything else for Mr. Wright.

Mr. Joffrion stated to Mr. Wright that he could not say anything about conversations he may have had with Ron Adams, that only Mr. Adams could speak to that. He continued that Mr. Davis could talk about conversations that he had had with Mr. Wright. He stated that with their internal discussions, the only conversation they ever had was concerning a fence of four, five, or six feet in height which would be consistent with the architecture and the historic district. He continued that what was contemplated was something in the nature of a picket fence or a chain fence, as had been described. He continued that no one had ever mentioned anything about a 12- to 15-foot high fence.

President Russell stated to Mr. Davis that he could share his comments about his meetings with Mr. Wright if he would like to.

Mr. Davis stated that when this had originally started, asking for the use of a public right-of-way, legal counsel for

Mr. Wright had contacted the City and was transferred to the Engineering Department, noting that this had mainly been passed through to him and Kathy Martin. He stated that the legal counsel had asked to use five feet of City right-of-way for a four- to five-foot period style fence, to go along with the period of the house.

Mr. Davis stated that they wanted to see redevelopment in North Huntsville just as they did in all parts of the city. He stated that they had taken this under consideration and had said that if this would help in the remodeling of the house in the time period, it would be a good shot in the arm for the Oakwood Avenue area. He stated further that this was when this matter had been brought to the Council for their approval to allow that use within that right-of-way.

Mr. Davis stated that once construction started, the fence was of such a height and scale that the posts were so deep in the ground that they would not break away should a car hit them. He continued that this was in the City's public right-of-way, so that if someone crashed into one of these posts, the City would be liable, that it was in their right-of-way.

Mr. Davis stated that they just did not want to give the City this kind of liability. He stated that they had told Mr. Wright if he wanted to take it out of the City's right-of-way, that as far as the height of the fence, there was nothing to prohibit it being put on his own property. He

continued that they just could not have a fence of that size in the public right-of-way because it would be a liability for the City. He continued that the City was not against the style of the fence, that it just needed to be on private property. He stated that if it were a four- to five-foot picket fence, that if someone hit it, it would break away, just like one of the City's speed limit signs, and would not harm anyone.

President Russell asked Mr. Wright if that addressed his questions.

Mr. Wright asked if he could address the comments.

President Russell stated that Mr. Wright could do so if he could do it quickly.

Mr. Wright stated that he agreed with Mr. Davis, that he thought the fence should be on his property, that the City should not have liability. He stated that the solution for this, in his opinion, was for the City to vacate the right-of-way so that it would not be a liability for the City. He continued that Mr. Davis had mentioned safety because of the posts being so deep in the ground, but stated that he could not see the difference between these and all the utility poles that were in the ground in the City rights-of-way. He asked if those did not also pose a liability for the City.

President Russell stated that the City was probably liable for everything, so that the answer would be yes.

Mr. Wright stated that his recollection of the conversation that had been held about the fence was different,

that the conversations that Mr. Joffrion and Mr. Davis had talked about, with the fence being five feet, that he was never involved in those conversations. He stated that if his lawyer was involved in those conversations, he must have been misrepresented, because that information had never come back to him. He continued that this was not in the resolution that the Council had approved. He stated that it appeared to be a bit unfair to him that having not specified any restrictions, and considering the fact that he checked on everything before he built it, they were now talking about revoking the license. He stated that, also, the people who drove up and down the street every day, who lived there, and who had suffered through the harassment and other problems, did not seem to find a problem with the fence.

Councilman Kling asked if this were a historic house, if the Historic Preservation Commission would come in as far as approving the design.

President Russell replied in the negative, stating that it was not in a historic district.

Ms. Johnson, 2108 Kildare Street, appeared before the Council, stating that when Mr. Joffrion had made the comment about the size of the fence, it bothered her, because this was a historical home, a large home, and for the resident to be able to have privacy to sit on her front porch, it would require a larger fence. She continued that persons had not seen the outcome of what this fence was going to look like.

She stated that if there was no limit to the size of a fence, she could not understand why the resident could not build a fence to give herself privacy on her property.

President Russell stated that she certainly could on her property, that they were at this time talking about the City's right-of-way, noting that these were two different pieces of property. He stated that Mr. Wright was aware that he could bring the fence back and put it on his property and build it as high as he would like.

Upon motion, duly seconded, it was voted to adjourn.

PRESIDENT OF THE CITY COUNCIL

ATTEST:

CITY CLERK-TREASURER